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7 Attorney for Plaintiff,
8 Yolanda Ferreira

9
10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13

14 YOLANDA FERREIRA

15 Plaintiff,

16 v.

17 SOUTHWEST AIRLINES CO., AIR
18 TRAN AIRWAYS, INC. and DOES 1-10,
19 inclusive

20 Defendants.

) **CASE NO.:**
)
)
)

) **COMPLAINT FOR DAMAGES FOR**
) **PERSONAL INJURIES BASED ON**
) **NEGLIGENCE AGAINST AIRLINE**
)
)
)
)
)

21 Plaintiff alleges:

22 1. Plaintiff is and was at all times mentioned herein a citizen of the State of
23 California.

24 2. SOUTHWEST AIRLINES CO., is a corporation incorporated under the laws of
25 the State of Texas having its principal place of business in the State of Texas.

26 3. AIR TRAN AIRWAYS, INC. is a corporation incorporated under the laws of the
27 State of Georgia having its principal place of business in the State of Georgia.

28 4. The jurisdiction of this Court over the subject matter of this action is predicated

1 on 28 USC §1332. The amount in controversy exceeds \$75,000.00, exclusive of interest
2 and costs.

3 5. Plaintiff resides in this district.
4

5 **FIRST CAUSE OF ACTION**

6 **Yolanda Ferreira v. ALL DEFENANTS**

7 6. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
8 DOES 1-10, inclusive, and therefore, sues these defendants by such fictitious names.
9 Plaintiff will amend this complaint to allege their true names and capacities when
10 ascertained. Plaintiff is informed and believes and thereon alleges that each of such
11 fictitiously named defendant is negligently responsible in some manner for the
12 occurrences herein alleged, and that injuries as herein alleged were proximately caused
13 by defendants acts.

14 7. On or about July 31, 2013, plaintiff was a passenger for reward on a certain
15 airplane Flight No. 1646 operated by, and under the exclusive control of defendants and
16 of their agents, servants, and employees, on defendant's flight No. 1646 from Los
17 Angeles to Mexico. On or about July 31, 2013, plaintiff was a fare paying passenger on
18 an airplane owned and operated by SOUTHWEST AIRLINES CO. and AIRTRAN
19 AIRWAYS, as the airplane was flown under the control of defendants, and each of
20 them, from Los Angeles, California to Mexico. While the airplane was in flight between
21 Los Angeles, California and Mexico, it dropped in such a precipitous and sudden
22 manner that plaintiff was caused to be thrown about violently, sustained the injuries
23 hereinafter set out. Plaintiff is informed and believes, and on that ground alleges, that
24 defendants
25 SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS and each of them, negligently
26 caused the airplane to drop in this precipitous and sudden manner, causing injury to
27 the plaintiff as set out below.

28 8. The airplane was equipped with seat belts at each seat for the safety of

1 passenger's and with a sign at the front of the airplane reading "Fasten Seat Belts,"
2 which was to be illuminated by defendant's agents, servants, and employees to warn
3 and direct passengers to fasten their seat belts for their safety when the airplane was
4 taking off and landing and when advisable for their safety by reason of climatic
5 conditions or otherwise. On or about July 31, 2013, plaintiff was a fare paying passenger
6 on an airplane owned and operated by SOUTHWEST AIRLINES CO. and AIRTRAN
7 AIRWAYS, as the airplane was flown under the control of defendants, and each of
8 them, from Los Angeles, California to Mexico. While the airplane was in flight between
9 Los Angeles, California and Mexico, it dropped in such a precipitous and sudden
10 manner that plaintiff was caused to be thrown about violently, sustained the injuries
11 hereinafter set out. Plaintiff is informed and believes, and on that ground alleges, that
12 defendants SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS and each of them,
13 negligently caused the airplane to drop in this precipitous and sudden manner, causing
14 injury to the plaintiff as set out below.

15 9. Plaintiff was not an experienced air traveler and relied on defendants and their
16 agents, servants, and employees to warn and direct her to fasten her seat belt when
17 necessary for her safety and protection.

18 10. While the airplane was flying over Mexico the air and weather through which it
19 was flying became rough and turbulent. Defendant and its agents, servants, and
20 employees then and there negligently, recklessly, carelessly, and unlawfully failed to
21 warn or direct plaintiff to fasten her seat belt, either by illuminating the sign reading
22 "Fasten Seat Belts" or by any other means, and failed to take any other precautions for
23 the safety of plaintiff, with the result that plaintiff was in the restroom and the plane
24 took a huge dive and she hit her head on the ceiling and injured other parts of her body.

25 11. As a proximate result of defendant's negligence, recklessness, carelessness, and
26 unlawful conduct as aforesaid, and by reason of plaintiff hitting her head on the ceiling
27 of the bathroom, plaintiff was hurt and injured in her health, strength, and activity,
28 sustaining a broken neck and many other serious injuries.

1 12. As a further proximate result of the negligence of the defendants plaintiff has
2 incurred and will continue to incur medical and related expenses, the full amount of
3 which is now not known. Plaintiff will move to amend this complaint to allege such
4 amount when ascertained.

5 13. As a further proximate result of the negligence of defendants SOUTHWEST
6 AIRLINES CO. and AIRTRAN AIRWAYS, and its agents and employees, plaintiff was
7 prevented from attending her usual occupation as a school teacher from July 31, 2012 to
8 the date of filing of this complaint and thereby lost earnings.

9 **SECOND CAUSE OF ACTION**

10 **Yolanda Ferreira v. ALL DEFENANTS**

11 14. Plaintiff alleges and incorporates by reference paragraphs 1 through 13, above, as
12 though fully set forth in this action.

13 15. On or about July 31, 2013, plaintiff was a fare paying passenger on an airplane
14 owned and operated by SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS, as the
15 airplane was flown under the control of defendants, and each of them, from Los
16 Angeles, California to Mexico.

17 16. While the airplane was in flight between Los Angeles, California and Mexico, it
18 dropped in such a precipitous and sudden manner that plaintiff was caused to be
19 thrown about violently, sustained the injuries hereinafter set out.

20 17. Plaintiff is informed and believes, and on that ground alleges, that defendants
21 SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS and each of them, negligently
22 caused the airplane to drop in this precipitous and sudden manner, causing injury to
23 the plaintiff as set out below.

24 18. As a proximate result of defendant's negligence, recklessness, carelessness, and
25 unlawful conduct as aforesaid, and by reason of plaintiff hitting her head on the ceiling
26 of the bathroom, plaintiff was hurt and injured in her health, strength, and activity,
27 sustaining a broken neck and many other serious injuries.

28 19. As a further proximate result of the negligence of the defendants plaintiff has

1 incurred and will continue to incur medical and related expenses, the full amount of
2 which is now not known. Plaintiff will move to amend this complaint to allege such
3 amount when ascertained.

4 20. As a further proximate result of the negligence of defendants SOUTHWEST
5 AIRLINES CO. and AIRTRAN AIRWAYS, and its agents and employees, plaintiff was
6 preventing from attending her usual occupation as a school teacher for a period of 365
7 days to the date of filing of this complaint and thereby lost earnings.

8 **THIRD CAUSE OF ACTION**
9 **Yolanda Ferreira v. ALL DEFENDANTS**

10 21. Plaintiff alleges and incorporates by reference paragraphs 1 through 20, above, as
11 though fully set forth in this action.

12 22. Plaintiff is informed and believes, and on that ground alleges, that defendants
13 SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS and each of them, knew, or, in
14 the exercise of that high degree of care for plaintiff's safety owed by them to the
15 plaintiff herein, should have known, that the airplane would drop in a sudden and
16 precipitous manner. Defendants, and each of them, failed to warn the plaintiff that such
17 would occur, with the result that the plaintiff was not prepared for the dropping and
18 was caused injury as hereinabove set out.

19 23. As a proximate result of defendant's negligence, recklessness, carelessness, and
20 unlawful conduct as aforesaid, and by reason of plaintiff hitting her head on the ceiling
21 of the bathroom, plaintiff was hurt and injured in her health, strength, and activity,
22 sustaining a broken neck and many other serious injuries.

23 24. As a further proximate result of the negligence of the defendants plaintiff has
24 incurred and will continue to incur medical and related expenses, the full amount of
25 which is now not known. Plaintiff will move to amend this complaint to allege such
26 amount when ascertained.

27 25. As a further proximate result of the negligence of defendants SOUTHWEST
28

1 AIRLINES CO. and AIRTRAN AIRWAYS, and its agents and employees, plaintiff was
2 prevented from attending her usual occupation as a school teacher from July 31, 2012 to
3 the date of filing of this complaint and thereby lost earnings.

4 **FOURTH CAUSE OF ACTION**

5 **Yolanda Ferreira v. ALL DEFENDANTS**

6
7 26. Plaintiff alleges and incorporates by reference paragraphs 1 through 25, above, as
8 though fully set forth in this action.

9 27. Defendant SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS knew that its
10 airplanes were subject to sudden dropping in flight and also knew that passengers
11 aboard its airplanes were likely to be in the rest room of the airplane at the time such
12 dropping occurred. Defendant in the exercise of the degree of care owed by it to its
13 passengers should have anticipated that passengers would be thrown against the
14 washbowls and commodes located therewith.

15 28. At the time of the dropping of the airplane, plaintiff was in the rest room aboard
16 the plane; the dropping of the airplane caused the plaintiff to be thrown with violent
17 force against the washbowl and commode located therein, and the washbowl and
18 commode were of a hard substance and not covered with any padding of any sort.

19 29. Although defendant SOUTHWEST AIRLINES CO. and AIRTRAN AIRWAYS
20 knew that passengers were likely to be thrown against the ceiling walls, washbowl and
21 commode located in the plane, it had negligently failed to cover the hard substance of
22 which the ceiling, walls, washbowl and commode were made with any padding.
23 Defendant's negligence was the proximate cause of injuries received by the plaintiff as
24 set out herein.

25 30 As a proximate result of defendant's negligence, recklessness, carelessness, and
26 unlawful conduct as aforesaid, and by reason of plaintiff hitting her head on the ceiling
27 of the bathroom, plaintiff was hurt and injured in her health, strength, and activity,
28 sustaining a broken neck and many other serious injuries.


1 31. As a further proximate result of the negligence of the defendants plaintiff has
2 incurred and will continue to incur medical and related expenses, the full amount of
3 which is now not known. Plaintiff will move to amend this complaint to allege such
4 amount when ascertained.

5 32. As a further proximate result of the negligence of defendants SOUTHWEST
6 AIRLINES CO. and AIRTRAN AIRWAYS, and its agents and employees, plaintiff was
7 prevented from attending her usual occupation as a school teacher from July 31, 2012 to
8 the date of filing of this complaint and thereby lost earnings.

9
10 WHEREFORE, Plaintiff prays judgment as follows:

- 11 1. For general damages according to proof.
12 2. For medical and related expenses according to proof.
13 3. For loss of earnings according to proof.
14 4. For costs of suit herein incurred.
15 5. For such other and further relief as the court may deem proper.

16
17 Dated: 07/30/2014


18 RICHARD SAX, Attorney for Plaintiff

19
20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal
22 Rules of Civil Procedure.

23
24
25 07/30/2014


26 RICHARD SAX, Attorney for Plaintiff
27
28

JS 44 (Rev. 12/12) cand rev (1/15/13)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

YOLANDA FERREIRA

(b) County of Residence of First Listed Plaintiff **SONOMA**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

RICHARD SAX, 448 SEBASTOPOL AVENUE, SANTA ROSA, CA
95401; (707) 525-1824

DEFENDANTSSOUTHWEST AIRLINES CO., AIR TRAN AIRWAYS, INC. AND
DOES 1-10, INCLUSIVE

County of Residence of First Listed Defendant **FULTON AND DALLAS**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input checked="" type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
CALIFORNIA

Brief description of cause:

PERSONAL INJURY BASED ON NEGLIGENCE AGAINST AIRLINE

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/30/2014

SIGNATURE OF ATTORNEY OF RECORD

Richard Sax

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA